

The impact of the global financial crisis on mining in Katanga

Jeroen Cuvelier



Editorial

Author: Jeroen Cuvelier
Editing: Didier Verbruggen
Maps: Filip Hilgert
Photos: Raf Custers
Layout: Anne Hullebroeck

Antwerp 14 July 2009

Caption photo Front Page : Mine wagons leaving the mine of Kinsenda. (IPIS February 2008)



IPIS is member of the Fatal Transactions network. Through research, public awareness activities and advocacy work, the members of the network are dedicated to transform Fatal Transactions into Fair Transactions: Transactions that truly contribute to sustainable peace and reconstruction in Africa. The current European members of the network are IPIS (Belgium), Broederlijk Delen (Belgium), Niza/Action Aid (The Netherlands), IKV Pax Christi (The Netherlands), Oxfam Novib (The Netherlands), Bonn International Centre for Conversion (Germany), Medico International (Germany) and Wroclaw University (Poland). For more information: www.fataltransactions.org



With the support of Justice et Paix

Executive summary

This report examines the impact of the global financial crisis on the mining sector in Katanga, the southeast province of the Democratic Republic of the Congo. As far as the industrial mining sector is concerned, it is shown that the crisis exacerbated the uncertainty of mining companies that were waiting for the results of the review of the mining contracts and that were often in the middle of starting up or expanding their activities in Katanga. Nevertheless, IPIS remains convinced that the renegotiation of the mining contracts is of vital importance for the long-term development of the Congolese mining industry. As far as the artisanal mining sector is concerned, it is pointed out that, due to the sharp decline in mineral prices, large numbers of artisanal miners have left the mines. While some of them appear to have found a new source of income in agriculture, there are disturbing reports that others may have chosen to engage in criminal activities in order to stay afloat.

Given the importance of the mining sector as a source of revenue for the Democratic Republic of the Congo, the development of a sound policy for crisis management is of vital importance to protect the health of the Congolese Treasury and to keep intact the possibility of stepping up government efforts in terms of poverty reduction and infrastructure development once the global economy starts to recover. This report shows that both the central government in Kinshasa and the provincial government in Lubumbashi have taken a number of measures to cope with the consequences of the global financial crisis. Unfortunately, there are indications that the ongoing decentralisation process tends to complicate the cooperation between the two governments. Moreover, as a result of the exaggerated attention for the so-called 'rétrocession' issue in the Congolese press, there is a real risk that the anti-crisis measures of the Congolese authorities are not examined in a critical manner.



Katanga Mining, the inundated mine of T57 (IPIS February 2008)

Contents

Executive summary	3
1. Introduction	7
2. The implications of the global financial crisis for mining activities in Katanga	8
2.1 Consequences for industrial mining	8
2.2 Consequences for artisanal mining	11
3. An evaluation of government initiatives to cope with the crisis	13
3.1 Measures taken by the central government in Kinshasa	13
3.2 Measures taken by the provincial government in Lubumbashi	14
3.3 An assessment of the collaboration between Kinshasa and Lubumbashi	15
4. Conclusions	23
List of abbreviations	24

Katanga



IPIS July 2009 (cartographic source: Référentiel Géographique Commun, www.rgc.cd)

Copperbelt region



IPIS July 2009 (cartographic sources: Référentiel Géographique Commun, www.rgc.cd; GECO, www.gecoproject.org)

1. Introduction

Before September 2008, the Katangese mining sector witnessed a remarkable revival¹ after several decades of decline of the state-owned company Gécamines, which represented the bulk of the mining activity in the province². As a result of the gradual decrease in conflict in the DR Congo as a whole, the first democratic elections since Congolese independence and the adoption of a new mining code, the investment climate in Katanga became a lot more favourable than it used to be³. Furthermore, the well-known reputation of the Central African copperbelt as the repository of 34% of the world's cobalt reserves and 10% of the world's copper reserves⁴ also helps to explain why several major mining companies showed renewed interest in the Katangese mining business. While, in recent years, the global demand for copper rose due to the combination of increased consumer spending and expanding infrastructure in rapidly developing countries such as China and India⁵, the global demand for cobalt went up as a result of the growing use of rechargeable batteries and worldwide increases in chemical applications such as catalysts⁶.

Unfortunately, the global financial crisis threw a spanner in the works. As pointed out in the 'World Economic Outlook', published by the International Monetary Fund in October 2008, the financial crisis that erupted in August 2007 as a result of the collapse of the US subprime mortgage market started gaining momentum in September 2008. Confidence in global financial institutions was undermined and increasing solvency concerns brought about a series of bankruptcies, forced mergers and state interventions in the United States and Europe. This led to a dramatic change of the financial landscape and, most importantly, to a slowdown of the global economy⁷ and a sharp decline in the copper and cobalt prices on the international market⁸.

The goal of this report are twofold. Our first intention is to present an overview of the different ways in which the global economic crisis is currently impinging upon the Katangese mining sector. Although there have been numerous newspaper reports on the effects of the crisis on Congo's most important mining province, to the best of our knowledge no efforts have yet been made to compile the available information in a way that allows for the identification of a number of general trends. The second purpose of this paper is to make an assessment of the initiatives the Congolese authorities have taken to manage the crisis. Since mining has always constituted an important source of revenue for the country, the development of a sound policy for crisis management is of vital importance to protect the health of the Congolese Treasury and to keep intact the possibility of stepping up government efforts in terms of poverty reduction and infrastructure development once the global economy starts to recover.

What makes this crisis especially interesting to examine is that it takes place against the backdrop of the ongoing process of decentralisation in the DRC. Considering that, for some time now, there has been concern about the implications of decentralisation for the management of Congo's natural resources⁹, we think it is useful to check what the current slump in the Katangese mining business can tell us about the dynamics of the relationship between the central government in Kinshasa and the provincial government in Lubumbashi.

It is important to note that this report is entirely based on desk research. Nevertheless, although we are mainly relying on newspaper reports, we have supplemented this information with data gathered through telephone interviews with various stakeholders in the Katangese mining industry.

¹ In 2006 and 2007, no less than US\$ 2.1 billion was committed to mining projects in Congo. Several public-private partnerships were concluded - including 38 for the mining parastatal Gécamines - while the number of granted mining licences rose to 1635. Moreover, thanks to a ban on the exports of unprocessed minerals, Katanga witnessed the construction of a large number of new metallurgical plants, which, in turn, gave rise to an increase in metal production and a significant rise of the state's fiscal and parafiscal revenues. All of this had a positive impact on local employment. While the formal mining sector provided approximately 50.000 people with a job, the informal mining sector offered 250.000 people a new source of income (source: 'Technical memorandum of the Katangese Ministry of Mines', December 2008).

² 'L'effondrement de la Générale des Carrières et des Mines', Benjamin Rubbers, in: Cahiers d'Etudes Africaines, vol. XLVI, 1, 181, 2006: 115-133.

³ 'Digging in corruption: fraud, abuse and exploitation in Katanga's copper and cobalt mines', Global Witness, July 2006: 11; 13.

⁴ 'Same old story: a background study on natural resources in the Democratic Republic of Congo', Global Witness, June 2004: 23; 'African Metals starts program on its properties in the world-class Katanga copper belt', press release African Metals Corporation, 28 June 2007.

⁵ 'Heavy thoughts on metals', Houston Chronicle, 30 May 2006.

⁶ Cobalt has been increasingly used in rechargeable batteries since the middle of the 1980s. Given the reduced size and the portable nature of electronic appliances such as camcorders, mobile telephones and laptop computers, there has been a growing need for high capacity, rechargeable batteries to power these devices. Since the three high energy density batteries best suited for portable devices use considerable quantities of cobalt, it should not come as a big surprise that there has been an upward trend in the demand for cobalt on the world market ever since, apart from a slowdown around 2001, when the fall in demand for cellphones resulted in a 20% fall in the demand for cobalt. It is estimated that, between 2002 and 2005, battery applications formed 25% of worldwide cobalt demand, that is about 12.000 tonnes (source: info from the website of the Cobalt Development Institute: www.thecdi.com).

⁷ 'World Economic Outlook', International Monetary Fund, October 2008: 1.

⁸ Nevertheless, it should be noted that, at the time of writing, prices are rallying. Between December 2008 and March 2009, the copper price jumped from US\$2818 to US\$4400 per tonne, a rise of 55%. Some observers think that this price rally is temporary and mainly stems from a surge in demand after a period where many suppliers have been selling stocks. One of the elements that help to explain this sudden recovery though, is China's mineral policy. From the beginning of 2009 onwards, China has started importing huge quantities of copper, probably in a bid to build up its strategic stocks at a time when mineral prices are still relatively low. Having launched an economic recovery plan worth US\$586 billion, China is in desperate need of copper to expand its infrastructure (source: 'Rebond de cours du cuivre et regain d'activités minières dans le Katanga', Le Potentiel, 9 April 2009).

⁹ See for instance: www.revenuwatsh.org/our-work/countries/drc.php

2. The implications of the global financial crisis for mining activities in Katanga

In the following sections, we will first discuss the consequences of the crisis for industrial mining and then for artisanal mining.

2.1 Consequences for industrial mining

The credit crisis came at a very bad time for the Katangese mining industry. On the one hand, there was already a lot of uncertainty because of the protracted nature of the negotiations about the review of 60 mining contracts between Congolese state-owned companies and private enterprises, and, on the other hand, several companies were in the middle of starting up or expanding their activities. An additional reason why the crisis did not come at a welcome moment for the Katangese mining industry, is that it appears to have created unrest among the newly arrived Chinese companies in the region.

2.1.1 Uncertainty about the mining review

The Congolese government started its review of the mining contracts in 2007, with a particular focus on agreements concluded in the period of civil war and the subsequent transition period¹⁰. The aim of the review was to obtain a new partition of mining revenues and a larger share for the Congolese state. During the first phase, which lasted from April 2007 to March 2008, the 'Inter-ministerial Commission for the Revisitation of Mining Contracts' made an audit of the contracts as well as an evaluation of their impact on Congo's mining parastatals and on national development. Furthermore, it formulated a number of recommendations for the revision of the contracts and for the rectification of certain imbalances. In its final report, which was published on 20 March 2008, the Commission divided the reviewed contracts into three categories: category A for contracts that were allowed to remain unchanged, category B for contracts that needed to be renegotiated and category C for contracts that needed to be cancelled. Remarkably, not a single company was classified in category A. While 39 companies were assigned to category B, 22 were put into category C¹¹.

The second phase of the review process, in which a task force composed of 7 ministers and the chief of staff of President Kabila is expected to engage in negotiations with all the companies belonging to category B, is taking much more time than originally expected¹². In spite of the fact that Victor Kasongo, the Deputy Minister of Mines, promised to finalise the process before Christmas, at the time of writing six agreements were still awaiting approval¹³. One of them concerns the Tenke Fungurume Mining project, one of the biggest copper and cobalt operations in the world. The project is run by Tenke Fungurume Mining SARL (TFM), a joint venture between Gécamines (17,5%), the Lundin Group's Tenke Mining Corporation (24,75%) and Freeport McMoRan Gold and Copper Company (57,75%)¹⁴. On 7 January 2009, the specialised newsletter 'Africa Mining Intelligence' reported that the impasse in the renegotiation of TFM's contract threatened to jeopardise a 100 million euro loan sought from the European Investment Bank (EIB). The EIB is said to have told TFM in December 2008 that it was unable to pay out funds until it received a letter from the Congolese government that it had no objections to the project¹⁵. At the time of writing, the final contract had not yet been signed because of the ongoing negotiations about the review of TFM's mining convention¹⁶.

2.1.2 Uncertainty about the future of certain mining projects

The credit crisis did not only come at an inconvenient time because of the uncertainty about the contract review, but also because of the fact that many companies were about to begin or enlarge their mining projects. A first example concerns the Metorex copper / cobalt project in Ruashi, situated at 10 kilometres from Lubumbashi. Metorex acquired Ruashi from Sentinelle Global Investments in May 2004. This included the Ruashi-Etoile project in partnership with Gécamines¹⁷. Partly due to a delay in ramping up the second phase of this Ruashi project (Ruashi II), the company was forced to announce, in the beginning of December 2008, that it would have to restructure 2bn Rand (\$250m) of

¹⁰ 'Freeport expects DRC contract resolution in 'relatively near future'', Mining Weekly, 26 January 2009.

¹¹ 'Democratic Republic of the Congo, mining contracts – state of affairs', Raf Custers (IPIS), 25 March 2008: 1-2.

¹² Ibidem: 4.

¹³ On 16 April 2009, the Congolese Deputy Minister of Mines announced that contract revisions proposed by AngloGold Ashanti, Banro, First Quantum, Gold Fields, Freeport-MacMoRan and Mwana Africa had been rejected (sources: 'Congo rejects proposals by 6 big mining firms', Reuters, 16 April 2009; 'Congo to decide on mining contracts soon', Reuters, 17 April 2009).

¹⁴ 'Risky business. The Lundin Group's involvement in the Tenke Fungurume Mining Project in the Democratic Republic of Congo', Raf Custers & Sara Nordbrand, IPIS report, 19 February 2008: 3.

¹⁵ 'Tenke Fungurume still awaiting EIB loan', Africa Mining Intelligence no. 194, 7 January 2009.

¹⁶ Website European Investment Bank: 'Tenke Fungurume Mining Project, Democratic Republic of Congo (DRC)', see: <http://www.eib.europa.eu/projects/news/tenke-fungurume-mining-project-democratic-republic-of-congo-drc.htm>.

¹⁷ 'The strategic 'local' partners', Africa Mining Intelligence no. 98, 8-21 December 2004.

medium-term debt with Standard Bank, while it would also have to raise almost 1bn Rand (US\$125m) in fresh debt and equity. As a result of this, Metorex' share price at the Johannesburg Stock Exchange (JSE) dropped from 380c at the end of November 2008 to 195c on 8 December 2008. In an attempt to turn the tide, Metorex decided to appoint a new top management as well as a board oversight committee¹⁸. Nevertheless, on 4 March 2009, the chief financial officer said that the company might need more funding later this year and that it was considering various options to enhance liquidity such as turning certain assets into cash¹⁹.

A second example of a company that was in the middle of expanding its mining activities in Katanga when the global financial crisis erupted, is that of the London-based and AIM-listed Central African Mining & Exploration Company (CAMEC), which is headed by England's former cricket star Phil Edmonds²⁰. For the past couple of years, the company appears to have concentrated on borrowing from banks or raising cash from shareholders in order to pay for takeovers and exploration. In 2007, for instance, it took out US\$100m of loans, including US\$60m from Credit Suisse, with the aim of launching an all-share offer for Katanga Mining, one of its most important rivals in the Katangese mining business (cf. infra). However, only a few hours after the offer was formally tabled, CAMEC was told that the Congolese government revoked one of its operating licences in an area called C19, due to 'irregularities' that were said to have taken place when CAMEC acquired the permit. As a result of this event, the takeover of Katanga Mining by CAMEC never materialised²¹. On 19 November 2008, when demand for copper and cobalt started to slump, CAMEC halted its mining activities in Katanga²². It was not until the end of March 2009 that the company decided to resume its operations. On 26 March 2009, it restarted its cobalt production at Mukondo Mountain, and, around the same time, it also resumed copper production at its Luita site. When the news about the resumption got out, CAMEC's shares at the London Stock Exchange immediately rose by 15%²³. CAMEC spokesman Ben Brewerton informed IPIS that, in May 2009, the Congolese government approved all CAMEC's licences as being legitimate²⁴.

The Australian copper producer Anvil Mining, which is listed on the Toronto Stock Exchange and the Australian Stock Exchange, is a third example of a mining company that is badly affected by the global financial crisis. During the fourth quarter of 2008, Anvil placed the Dikulushi copper mine on care and maintenance, froze its operations at Mutoshi and placed on hold the construction works of stage II at Kinsevere. On 15 May 2009, the company announced a net loss of US\$18.8 million for the first quarter of 2009. It added that, in the first quarter of 2008, its financial results were a lot better: at that time, it reported a net income of US\$21.6 million²⁵. In order to turn the tide, Anvil developed an anti-crisis strategy for the next 12 to 15 months, which consisted in keeping a minimum cash balance, placing restrictions on all but essential capital spending and reducing general and administrative costs to the minimum²⁶. Since the company needed additional funding to complete the second stage of its Kinsevere project, it considered a number of financing options, including a debt finance package from a consortium of European banks. Anvil hopes that the funding will be in place during the second half of 2009²⁷.

On 21 January 2009, Anvil announced some good news to its shareholders as well: it managed to reach an agreement with Gécamines and the Congolese government on the terms of its Kinsevere Lease Agreement and the Dikulushi Mining Convention²⁸. In a press release issued on 13 April 2009, it said it had recommenced operation of the Kinsevere Heavy Mediation Separation Processing Plant²⁹, while it had shut down the Electric Arc Furnace located at Kinsevere³⁰. Robert La Valliere, Anvil's Vice President for Corporate Affairs, told IPIS that, on 4 May 2009, his company had raised a public offering of 34.5 million Canadian dollars in Canada in order to pay an amount of US\$15 million to Gécamines. According to La Valliere, the payment was part of the amended Kinsevere agreement that was reached between Anvil Mining Ltd, the Congolese government and Gécamines on 9 January 2009³¹.

¹⁸ 'Debt cost hits stock', Business Day, 9 December 2008; 'Metorex keeps its focus on Congo', Business Day, 9 December 2008; 'Sweeping changes at Metorex', Business Day, 15 December 2008.

¹⁹ 'Lower profits will 'severely test' Metorex management', Business Day, 4 March 2009. IPIS communication with Jacques de Bie (Metorex), 28 May 2009.

²⁰ According to the information presented on its website, CAMEC's copper and cobalt operations are situated in concessions PE467 and PE469 (formerly known as C19 and C21), the Mukondo mountain concession, and concessions PE463 and PE468 (formerly known as C17 and C18), while the company's three most important production facilities are the Luita SX/EW plant, the Kakanda concentrator and the Kambove sulphuric acid plant. Apart from having a 47.23% stake in the Copper Resource Corporation, CAMEC also has an 78% interest in Zhejiang Galico, one of the largest chemical salt producers in China, specialising in the production of cobalt, nickel and copper inorganic salts and powders (source: <http://www.camec-plc.com/production-copper>).

²¹ 'Camec appeals to Congo's president over licence blow', The Daily Telegraph, 1 September 2007; 'Business and morality: is Phil Edmonds right to trade with Robert Mugabe?', The Daily Telegraph, 27 February 2009.

²² 'Update 1-CAMEC suspends cobalt, copper production in Congo', Reuters, 19 November 2009.

²³ 'Camec rises as copper production restarts in Congo', Bloomberg, 15 April 2009.

²⁴ IPIS communication with Ben Brewerton (CAMEC), 28 May 2009.

²⁵ 'Anvil Mining reports first quarter 2009 financial results', Anvil Mining News Release, 15 May 2009.

²⁶ Source: <http://cxa.marketwatch.com>, Anvil update, Canada NewsWire via Comtex, 19 February 2009.

²⁷ Source: <http://cxa.marketwatch.com>, Anvil update, Canada NewsWire via Comtex, 19 February 2009.

²⁸ 'Anvil reaches agreement with Gécamines and the DRC government for the Kinsevere and the Dikulushi properties', Anvil Mining News Release, 21 January 2009.

²⁹ The intention is to produce approximately 13400 tonnes of copper for 2009 (IPIS communication with Robert La Valliere (Anvil Mining Ltd), 28 May 2009).

³⁰ 'Anvil Mining recommences HMS Production at Kinsevere, announces 2009 outlook and current cash position', Anvil Mining News Release, 13 April 2009.

³¹ IPIS communication with Robert La Valliere (Anvil Mining Ltd), 28 May 2009.

A fourth mining company struck by the global financial crisis is Toronto-listed Katanga Mining Ltd, which holds a 75% stake in two joint ventures with Gécamines: on the one hand, the Kamoto Copper Company (KCC), and, on the other hand, the DRC Copper and Cobalt Project (DCP)³². On 21 November 2008, the company announced that it suspended mining operations at the Tilwezembe open pit and ore processing at the Kolwezi concentrator because of the low cobalt prices³³. Furthermore, in order to keep afloat, Katanga Mining Ltd accepted a US\$265.3 million lifeline from the Swiss trading house Glencore³⁴. In the year and a half preceding this deal, Katanga Mining Ltd had already received financial backing from Glencore to refurbish the Kamoto mining complex and to absorb Nikanor, the owner of the neighbouring KOV mining complex. Following the closure of the two-year mandatorily convertible loan facility on 9 February 2009, Glencore obtained 80.9% of Katanga Mining Ltd³⁵. On 31 March 2009, Katanga Mining announced a net loss for the year 2008 of US\$1,298.9 million or US\$6.51 per share³⁶.

Finally, the Melbourne-based BHP Billiton, the world's largest mining company, decided to stop exploring for copper in Katanga after a period of five years³⁷. The company's net profit for the six months to end-December 2008 amounted to US\$2.6 billion, while in the same period in 2007 it had still been at the level of US\$6 billion³⁸.

Box 1: Troubles at the SNCC

In the beginning of February 2009, the employees of the *Société Nationale des chemins de fer du Congo* (SNCC), Congo's national railway company, went on strike because they had not been paid for the past 30 months. They demanded the payment of 4 months of salaries in arrears at the exchange rate of FC790/\$1 as well as the annulment of SNCC's contract with the Belgian company Vecturis³⁹. Kisula Ngoy, a member of the provincial parliament of Katanga, accused the Kinshasa government of 'suffocating' the SNCC by not taking any initiatives to prevent private mining companies from transporting their minerals by road instead of by rail. Laurent Kahozi, the principal private secretary (*directeur de cabinet*) of the Provincial Minister of Infrastructure, reacted to Ngoy's critique by pointing out that, legally speaking, private companies were free to organise the transport of their commodities as they pleased, especially since the SNCC had problems serving its clients appropriately⁴⁰. Alarmed by the fact that the SNCC strike prevented Gécamines from transferring minerals from Kolwezi to the Shituru metallurgical plant near Likasi, the Katangese governor Moïse Katumbi convoked the management committees of SNCC and Gécamines in order to discuss the situation on 15 April 2009⁴¹. Two days later, on 17 April 2009, Gécamines announced that it had bought four locomotives of its own, with the idea of transporting its minerals single-handedly, without having to call in the help of the SNCC. Nevertheless, it still had to face the fact that it would be unable to use the locomotives as long as the employees of the national railway company carried on with their strike⁴².

2.1.3 Lack of clarity about the position of Chinese companies

For the moment, it is unclear what will be the impact of the financial crisis on the activities of Chinese companies in Katanga. On the one hand, some observers have pointed out that China is looking at things from a long-term perspective, in other words, that it is still planning to continue its strategic expansion in Africa despite the current economic slowdown. On the occasion of a China-Africa forum in January 2009, Cui Yongqian, a former Chinese ambassador to the DRC and to the Central African Republic, stated that the financial crisis constituted "a powerful opportunity for Chinese businesses to expand their investment and market share in Africa"⁴³.

On the other hand, however, the Katangese government is very upset by the sudden departure, at the end of December 2008, of 40 Chinese companies that were previously running copper smelters in Katanga. According to the Katangese governor Moïse Katumbi, the provincial government sent the companies a letter, asking them to pay their remaining

³² Information on these two joint ventures was drawn from the website of Katanga Mining Ltd: www.katangamining.com.

³³ 'Katanga halts cobalt-concentrate output on low prices' (update 2), Bloomberg, 21 November 2008.

³⁴ 'Forrest verliest greep op Katanga Mining', Belga, 14 January 2009.

³⁵ 'Glencore annexes Katanga Mining', Metal Pages, 12 February 2009.

³⁶ 'Katanga announces year-end results 2008 & joint venture update', News release Katanga Mining Limited, 31 March 2009.

³⁷ 'BHP ends copper search in Congo's Katanga province', Bloomberg, 23 February 2009. According to Mr Harry, the BHP Billiton media relations manager in London, the decision to stop exploring in Katanga did not have anything to do with the global financial crisis (IPIS telephone interview, 12 March 2009).

³⁸ 'BHP profits drop 57% on weak metals demand', Metal Pages, 4 February 2009.

³⁹ Vecturis won a tender to provide technical assistance to the SNCC with a view to stabilising the company. The contract, which started at the end of the second semester of 2008 and has a duration of two years, consists in taking measures that put a stop to the deterioration of the technical and operational condition of the SNCC (information from the Vecturis website: www.vecturis.com). According to certain railway trade unions, Vecturis had arrived on the scene without having the necessary working capital and with the sole intention of reducing the number of personnel at the national railway company (source: see footnote 41).

⁴⁰ Various reports of Radio Okapi: 'Lubumbashi: la grève continue à la SNCC', 18 March 2009; 'Lubumbashi: impayés depuis 30 mois, les agents de la SNCC poursuivent la grève', 11 February 2009; 'Kisula Ngoy accuse l'état congolais d'asphyxier la SNCC', 3 March 2009.

⁴¹ 'Moïse Katumbi s'engage à contribuer à la résurrection de la Gécamines et la SNCC', CL/PKF, 15 April 2009.

⁴² 'Lubumbashi: la Gécamines acquiert 4 locomotives pour le transport de ses minerais', Radio Okapi, 17 April 2009.

⁴³ 'China: in Africa for the long haul', Reuters, 28 January 2009.

taxes and to give a severance pay to their former staff. If they fail to respond to this request, the government will probably take legal action against them, asking the court to auction the company's properties in order to pay the bills⁴⁴.

Meanwhile, there is increasing pressure from western donors to renegotiate a controversial Chinese-Congolese minerals-for-infrastructure contract that was concluded in 2008. According to this agreement, China was expected to spend approximately US\$9 billion on building infrastructure and developing the mining industry in exchange for control of 10 million tonnes of copper and 600.000 tonnes of cobalt⁴⁵. Institutions like the Paris Club of Creditors and the IMF are concerned that the deal creates the risk of increasing Congo's debt burden, since, in terms of the agreement, the Congolese state promises to guarantee the Chinese loan⁴⁶.

2.2 Consequences for artisanal mining

Prior to the eruption of the global financial crisis, the revival of industrial mining in the transition period between the end of the civil war and the elections of 2006 coincided with a remarkable expansion of artisanal mining. Benefiting from the formal reconfirmation of the artisanal mining sector by the regime of Laurent-Désiré Kabila⁴⁷, an estimated 250.000 people went to the mining areas to work as *creuseurs*. Basically, they worked in two different places: either legally, in concessions ceded to them by Gécamines on instructions from the Congolese government, or illegally, in concessions belonging to private companies or to Gécamines. Organising themselves in teams of 4 to 6 people, the *creuseurs* supplied minerals to middlemen or *négociants*, who, in their turn, arranged for the transport of the minerals from the mines to the warehouses of *maisons* (buying houses) established in Kolwezi, Likasi and Lubumbashi, Katanga's three main mining hubs⁴⁸. From these mining hubs onwards, the minerals were exported to companies based in China, Zambia, Belgium, Finland, Germany, Japan, South Korea, the Netherlands, South Africa, Sweden and the USA⁴⁹.

Things changed rather dramatically during the last quarter of 2008. On 10 November 2008, Radio Okapi reported that a group of 5000 people – composed of *creuseurs* and *négociants* – had decided to put an end to their involvement in the artisanal mining business in Kolwezi. According to a local miner syndicate, this decision resulted from the sharp decline in mineral prices at the local level⁵⁰.

As the Katangese syndicalist Jean-Pierre Muteba has rightly pointed out⁵¹, the decrease in the mineral prices at the local level has not only caused a severe loss of revenues for the artisanal miners themselves, but also for other people who are trying to make a living by offering various types of services to the mining industry, including transporters, sex workers, and managers of restaurants, hotels and telephone kiosks in the vicinity of the mines.

There are indications that the economic insecurity is increasingly giving rise to social tensions. In the beginning of April 2009, Kolwezi witnessed several demonstrations by artisanal and industrial workers threatened with unemployment. First, on the 9th of April, a group of *négociants* demonstrated in front of the town hall to demand the payment of an outstanding debt of \$10 million by Gécamines. Then, on the 10th of April, artisanal miners working on the site of Kolwezi's zinc factory blocked the road leading to their workplace in order to claim the removal of all the roadblocks created by Gécamines' Industrial Guard (*Garde Industrielle*) (of which the members were probably hoping to make some extra money by taxing passers-by). On the same day, 40 employees of the company MCK (Mining Company Katanga), who had been sent into technical unemployment 6 months before, took to the streets to ask for their final payment (*décompte final*). Finally, on the 16th of April, artisanal miners and employees of the mining company Kaol-DCP jointly protested against the cancellation of the latter's employment contracts as well as against the low level of the latter's final payment (*décompte final*)⁵².

Regrettably, the economic crisis is also leading to higher levels of insecurity in Katanga's major urban centres. In recent months, 11 people were killed in Lubumbashi, while 2 people were murdered in Likasi. It is believed that this may have something to do with the considerable influx of former artisanal miners who are massively leaving their working places out of discouragement over the declining copper and cobalt prices⁵³. Sadly enough, the rising levels of criminal-

⁴⁴ 'Chinese copper entrepreneurs flee DR Congo', Financial Times, 20 February 2009.

⁴⁵ 'Congo to complete study on Chinese loan mines by June', 10 February 2009. The agreement about Socomin, of which two-thirds are in the hands of Chinese players, was finalised in December 2007, following two months of negotiations in Peking. It was agreed that, within the time span of 15 years, Socomin would produce 10 million tonnes of copper and cobalt to pay off the loans ('Win-win or unequal exchange? The case of the Sino-Congolese cooperation agreements', Stefaan Marysse & Sara Geenen, in: Journal of Modern African Studies, forthcoming).

⁴⁶ 'Donors press Congo over \$9bn China deal', 9 February 2009. 'Congo to complete study on Chinese loan mines by June', Bloomberg, 10 February 2009.

⁴⁷ Referring to the ordinance-law no. 81-013 of 2 April 1981, Laurent Kabila's Minister of Mines Kibasa Maliba signed a ministerial decree which authorised the artisanal exploitation and trading of minerals in Katanga (source: 'Mines du Katanga: contamination organisée par l'état. Cas de la mine de Shinkolobwe', ASADHO 2003: 6).

⁴⁸ 'L'effondrement de la Générale des Carrières et des Mines', Benjamin Rubbers in: Cahiers d'Etudes Africaines, vol. XLVI, 1, 181: 34.

⁴⁹ 'Digging in corruption: fraud, abuse and exploitation in Katanga's copper and cobalt mines', Global Witness 2006: 49.

⁵⁰ 'Kolwezi: crise financière, les mines artisanales ferment', Radio Okapi, 10 November 2008.

⁵¹ 'Les impacts de la crise financière sur le secteur minier de la province du Katanga', Jean-Pierre Muteba, January 2009: 12.

⁵² 'Kolwezi: creuseurs artisanaux et agents de MCK en colère', Radio Okapi, 10 April 2009; 'Kolwezi: les agents de Kaol-DCP manifestent contre le licenciement massif', Radio Okapi, 16 April 2009.

⁵³ 'Congo-Kinshasa: Joblessness rises as global crisis hits mining', Inter Press Service News Agency, 12 February 2009.

ity and the incapacity of the Congolese police to do something about it, are provoking an upsurge of 'popular justice'. When criminals are caught red-handed, they run a serious risk of being killed on the spot by an angry mob armed with knives, hammers, sticks, pounders and tyres filled with petrol⁵⁴.

Box 2 Crude awakenings in the real estate sector

When mineral prices were still booming, the urban centres in Katanga witnessed a fast-growing demand for accommodation. Large numbers of foreign mineral buyers came to Lubumbashi, Likasi and Kolwezi in order to negotiate deals with local buying houses (*maisons*) or to establish buying houses of their own. Local city-dwellers who were eager to take advantage from this sudden accommodation scarcity, claimed huge sums of money as a deposit or even went as far as fraudulently letting out parts of their houses to several people at the same time, in order to be able to pocket more than one deposit. They used the money to engage in trading activities, to pay for the education and the marriages of their children or to cover other expenses. Now that the heyday of the mineral business is over, landlords are massively faced with tenants asking for the immediate reimbursement of their deposit. Since, in most cases, the former already consumed all the money of the deposit a long time ago, they find themselves unable to comply with the latter's requests. Needless to say, they are very often confronted with lawsuits as a result of this⁵⁵.



Landscape in the concession of Katanga Mining nearby Kolwezi (IPIS February 2008)

⁵⁴ 'Lubumbashi: la justice populaire prend la place face à la démission de la police', www.congoblog.net, 15 February 2009.

⁵⁵ 'Au Katanga le secteur de l'immobilier subit un sévère contrecoup de l'effondrement du cuivre consécutif à la crise financière', Le Soft, 24 March 2009.

3. An evaluation of government initiatives to cope with the crisis

MONUC, the mission of the United Nations in the DRC, is worried about the implications of the economic crisis for the population in Katanga. In a meeting with the *Fédération des Entreprises du Congo*, the Civil Affairs division of MONUC decided to take a number of concrete steps to alleviate the problems of the people who are about to lose their jobs. These measures include the provision of assistance to the future unemployed with regard to their severance pay, the development of a strategy for occupational resettlement, the identification of those branches of the economy that are capable of absorbing the unemployed, and, finally, the assessment of possible problems on the social level and on the security level⁵⁶.

For their part, the Congolese authorities have also taken a number of measures to alleviate the painful consequences of the global financial crisis for the population in Katanga. In the following sections, we will first give an overview of the initiatives taken by the central government in Kinshasa and the provincial government in Lubumbashi. We will not limit ourselves to a discussion of the measures concerning the mining sector but we will pay attention to all the initiatives that have been taken in order to fight the crisis. In the final sections of the paper, we will present an assessment of the collaboration between Kinshasa and Lubumbashi against the backdrop of the ongoing decentralisation process.

3.1 Measures taken by the central government in Kinshasa

From October 2008 onwards, Congo's public finances too were seriously affected by the world's economic downturn. As could be expected, the Congolese Ministry of Mines has been forced to revise its output forecasts for 2009. While in the period before the eruption of the financial crisis, it predicted 410.000 tonnes of copper exports, it is now expecting copper exports of 365.000 tonnes. For cobalt, things are looking worse. The Ministry of Mines believes that, in 2009, cobalt exports will only reach the level of 32.000 tonnes. Prior to the crisis, it was still convinced that cobalt exports would amount to 65.000 tonnes⁵⁷.

According to Michel Lokola, the Congolese Minister of Budget, the state will have to cut its 2009 budget by up to a quarter due to the fact that this year's mining revenues will be lower than originally expected. Given the fall in demand for mining and oil exports, which contribute around 70% of Congo's foreign currency revenues⁵⁸ and make up 40% of its total budget⁵⁹, he thinks the country is likely to return to its budget levels of 2008⁶⁰. In its latest economic report for the DRC, launched in the beginning of 2009, the World Bank stated that, in 2008, the country's overall budgetary position had improved due to higher oil prices and a higher efficiency in company income tax collection in the sectors of telecommunication and extractive industries, but it also pointed out that this improvement was overshadowed by the weaker prices and declining output in the mining sector. According to the World Bank, the third quarter of 2008 witnessed a sharp increase in the fiscal deficit as a result of falling tax revenues and increased spending on military operations in Eastern DRC⁶¹.

The Congolese Central Bank has raised interest rates three times from 28 to 66% in two months, while it also depleted a significant part of its foreign exchange reserves to prop up the weakening Congolese franc⁶². With the franc losing 32% of its value since 30 September 2008⁶³, the Congolese government is doing everything it can to prevent a repetition of the scenario of 1994, when inflation hit 10.000% under the late dictator Mobutu Sese Seko⁶⁴.

⁵⁶ 'MONUC concerned over mining crisis in Katanga', MONUC, 11 December 2008.

⁵⁷ 'Has the cobalt price hit bottom', Resource Investor, 22 January 2009.

⁵⁸ In December 2008, the IMF said that Congo's foreign currency reserves stood at approximately \$75 million (source: 'Congo's fiscal straits add to pressure', Financial Times, 9 February 2009). On February 12, 2009, Reuters wrote: "The global economic downturn has seen demand for Congo's mineral exports plummet. (...) Mineral exports account for around 70 percent of foreign currency revenues. Reserves, which stood at over US\$225 million in April 2008, are now rapidly drying up, slipping to just \$36 million by the beginning of February" (source: 'As Congo's coffers empty, crisis hits poor first', Reuters, 12 February 2009). One week later BCC's governor, Mr Masangu, admits that the "déficit a complètement consommé les excédents du Trésor" (source: *La RDC en récession depuis fin 2008, confirme le gouverneur de la BCC*, APA-Belga, 19 February 2009).

⁵⁹ In November 2007, the World Bank calculated that over the four preceding years Congo's government officially received \$70,5 million of 'Principal Mining Taxes' (source: *Growth with Governance in the Mining Sector, DR Congo*. World Bank draft, 19 November 2007).

⁶⁰ 'DR Congo sees budget shrinking on low metals income', Reuters, 10 February 2009.

⁶¹ 'Democratic Republic of Congo, Spring 2009, Economic Report', World Bank: p. 8.

⁶² 'DR Congo sees budget shrinking on low metals income', Reuters, 10 February 2009. Between October 2008 and early January 2009, the exchange rate has reportedly dropped from 500 to almost 800 Congolese francs for a dollar (source: 'Congo-Kinshasa: joblessness rises as global crisis hits mining', Inter Press Service News Agency, 12 February 2009). 'Congo's economic growth slows to 5.9% as output drops', Bloomberg, 18 February 2009.

⁶³ The Congolese franc has fallen to 742 against the US dollar since 30 September (source: 'Congo's economic growth slows to 5.9% as output drops', Bloomberg, 18 February 2009).

⁶⁴ 'World Bank proposes \$100 million crisis loan to DR Congo', Reuters, 17 February 2009.

Still, in their analysis of the consequences of the global financial crisis for economic development in the Democratic Republic of the Congo, Cassimon, Marysse and Verbeke, three economists from the Antwerp-based Institute of Development Policy and Management, have pointed out that the foreign exchange reserves of the Congolese Central Bank are not sufficient to be able to put a check on the depreciation of the national currency. As a result of this, the Congolese government has had no other option but to ask the international community for help⁶⁵.

The World Bank was the first international financial institution to come to the rescue of the central government in Kinshasa. On 26 February 2009, it issued a press release saying that it approved of a US\$100 million emergency grant from the International Development Association (IDA) Financial Crisis Response Fast Track Facility. The money was to be used for the financing of the short term costs of importing essential goods and commodities as well as for the payment of teachers' salaries in primary and secondary schools, and the state's water and electricity bills⁶⁶.

On 12 March 2009, the executive board of the International Monetary Fund approved the payment of US\$195,5 million to the DRC under the Rapid-Access Component of the Exogenous Shocks Facility (RAC-ESF). In its press release, the IMF justified its decision by pointing out that it was convinced of the suitability of the anti-crisis measures taken by the Congolese government, more specifically the efforts to avoid central bank financing and the adoption of a tight monetary policy in the context of a flexible exchange rate regime⁶⁷.

The Congolese government is trying hard to convince the International Monetary Fund of its good intentions with regard to the Chinese-Congolese minerals-for-infrastructure contract. This is evidenced by the fact that it is planning to do a feasibility study in order to check whether the proceeds of the mines involved in the deal will be high enough to support the US\$9 billion cost of the loan. The Congolese government hopes that the study will show that the envisaged projects will not put an additional burden on the country's existing debt, as feared by the IMF⁶⁸.

In an attempt to convince international mining companies to continue their operations in the DRC, the government in Kinshasa has announced that it will spend most of 2009 on building its mining support infrastructure. It is hoped that funds from the World Bank, the International Monetary Fund and China will allow for repairs to roads and rail, so that Congo is well prepared for a recovery of metal prices in the future⁶⁹.

3.2 Measures taken by the provincial government in Lubumbashi

At the end of December 2008, the departure of foreign investors from the Katangese mining sector was very visible in the border town of Kasumbalesa, where large numbers of tractors, vehicles and mechanical shovels were crossing the border on a daily basis. Reportedly, during an inspection mission on the road to Kasumbalesa, Moïse Katumbi, the governor of Katanga, personally intercepted a number of trucks that were heading for the Zambian border while carrying heavy machines⁷⁰.

One of the first measures taken by the Katangese authorities to cope with the consequences of the global financial crisis was the reduction of the export tax on minerals. In the beginning of January 2009, the provincial government diminished this tax from 28% to 1% in hopes that this would save smaller mining companies from having to close their doors, while it would also help to attract new investors to Katanga⁷¹.

In his presentation of the activities developed by the Katangese government as part of the budget of 2008 and the draft budget of 2009, governor Katumbi stated that six zones originally earmarked for artisanal mining but granted (at a later stage) to private mining companies had been successfully regained by the National Ministry of Mines, 'thanks to the joint efforts of both the national and the provincial governments'. As a result of this intervention by the Congolese authorities, he said, artisanal miners operating in the area would no longer have to be afraid of being chased away by enterprises involved in industrial mining⁷². Barthélémy Mumba Gama, the Katangese Minister of Mines, told IPIS that the names of the six concessions were Tombolo, Shamitumba, Karajipopo, Karoano, Karukuruku and Kampina. He said that the government was planning to work together with two recognised cooperatives of artisanal miners, EMAK and CMKK, in order to make arrangements for the management of the 6 concessions. He did not know whether SA Metals, Rubaco and TSM, the three private companies that used to own the mining titles for these concessions, had been given a compensation by the Congolese government⁷³.

⁶⁵ 'L'impact de la crise sur le développement en RDC', Danny Cassimon, Stefaan Marysse & Karel Verbeke, in: *L'Afrique des Grands Lacs*, Annuaire 2008-2009, forthcoming (see section 4: *Politiques anti-crise: limites et perspectives*).

⁶⁶ 'World Bank approves first fast track assistance programs', World Bank, press release no. 2009/237 EXC.

⁶⁷ 'IMF Executive Board approves US\$195,5 million disbursement to the Democratic Republic of the Congo under the exogenous shocks facility', IMF, press release no. 9/74, 12 March 2009.

⁶⁸ 'Congo to complete study on Chinese loan mines by June', Bloomberg, 10 February 2009.

⁶⁹ 'Congo woos miners with infrastructure spending', Reuters, 10 February 2009.

⁷⁰ 'Crise financière: Les mining rapatrient massivement du matériel et le personnel étranger', Radio Okapi, 22 December 2008.

⁷¹ 'Moïse Katumbi recourt à la recette de la réduction de 28% à 1% de la taxe d'exportation au Katanga', KK/Africa News/MMC, 9 January 2009.

⁷² 'Discours de présentation des actions développées dans le cadre du budget 2008 et du budget 2009 par Monsieur le Gouverneur de province devant l'assemblée nationale du Katanga' (taken from the website www.katanga.cd).

⁷³ IPIS communication with Barthélémy Mumba Gama, 20 May 2009.

In the opinion of the Katangese provincial government, agriculture constitutes a viable safety net for people who are out of a job as a result of the economic crisis. In order to stimulate people to return to the fields, it has put 9 tractors at the disposal of the 22 territories that make up the province of Katanga. Moreover, it has promised to assist *creuseurs* in making the switch from artisanal mining to agriculture⁷⁴.

Restarting the agricultural sector was also one of the recommendations put forward by the participants in a recent conference on Katanga's economic future, organised by the Katangese provincial government between 15 and 18 April 2009. A group of approximately 100 people, composed of government officials, experts from international organisations, members of NGOs and guests from Chile, Zambia and South Africa, gathered in Lubumbashi to think about alternatives to the mining industry. Apart from the need to kick-start Katangese agriculture, the conference's recommendations list also included the need to strengthen the production capacity in the mines, to guarantee a consistent application of the new mining code, to rehabilitate a number of tourist sites, to involve the University of Lubumbashi in scientific research on the development of various sectors of the Katangese economy and to establish a development policy based on renewable natural resources⁷⁵.

A final measure taken by the Katangese authorities to cope with the effects of the global financial crisis on its mining industry concerns the re-authorisation of copper concentrate exports. Prior to the crisis, the Katangese government had imposed a ban on such exports to punish operators who understated the value of the goods they were exporting to Zambia. According to 'Africa Mining Intelligence', lengthy negotiations between Kinshasa and Lusaka have now resulted in an agreement between Zambia's copperbelt minister, Mwansa Mbulakulima, and the governor of Katanga, Moïse Katumbi. In all likelihood, a significant part of the copper concentrates exported from Katanga will be processed in Chingola, at the newly inaugurated smelter of Konkola Copper Mines, Zambia's leading copper producer⁷⁶.

3.3 An assessment of the collaboration between Kinshasa and Lubumbashi

Decentralisation has been a recurring topic in Congolese politics for several decades now. In the course of the 1980s, three laws were voted that paved the way for deconcentration, that is, for the transfer of a number of administrative powers from central state units to local state units⁷⁷. Furthermore, during the national conference (*Conférence Nationale*) that was held in the beginning of the 1990s and that was intended to give political parties and civil society organisations the opportunity to talk about the development of a new political system in substitution for the single-party state led by Mobutu, decentralisation was described as absolutely necessary to improve governance in the country⁷⁸.

It was not until the promulgation of the new Congolese constitution on 18 February 2006, however, that concrete arrangements were made to organise the decentralisation process. It was stipulated that the country would be split up into 25 provinces plus the city of Kinshasa and that the central government and the provincial governments would divide the national revenues according to a 40%-60% distribution formula. In addition to this, it was decided that the provinces would be governed by a provincial government as well as by a provincial assembly. The city (*ville*), the municipality (*commune*), the sector (*secteur*) and the chiefdom (*chefferie*) were granted the status of 'decentralised territorial entities' (*entités territoriales décentralisées*) and were given freedom of administration and autonomy in the management of their economic, human, financial and technical resources. However, the constitution also made it clear that the composition, the organisation, the functioning of the 'decentralised territorial entities', and their relations with the state as well as with the provinces, would have to be fixed by an organic law⁷⁹. As far as the composition of the provincial government was concerned, the constitution stated that it would consist of a governor, a vice-governor and provincial ministers. The governor and the vice-governor would be elected for a period of five years, their mandate would be renewable and they would be officially appointed by the President of the Republic⁸⁰.

In Katanga, the start of the decentralisation process has been welcomed with great enthusiasm. This can probably be explained by the fact that, under the extreme scenario of complete fiscal autonomy, Katanga would be able to generate much more revenues than the other regions in the country⁸¹. In 1965, the *Union Minière du Haut-Katanga*, the predecessor of the mining parastatal Gécamines, generated 50% of the public revenues and 70% of the foreign exchange

⁷⁴ 'Katanga: minerais: les prix s'effondrent, le chômage monte en flèche', Syfia Grands Lacs, 15 January 2009.

⁷⁵ 'La crise financière oblige: Katanga prépare déjà l'après minerais', CL/PKF, 16 April 2009; 'Lubumbashi: comment garantir l'avenir du Katanga après les mines', Radio Okapi, 19 April 2009; 'Katanga: clôture à Lubumbashi du symposium sur l'après mines', Acp, 22 April 2009.

⁷⁶ 'Resumption of copper concentrate exports', Africa Mining Intelligence, 18 February 2009.

⁷⁷ This definition of deconcentration was found on the website of the World Bank: <http://web.worldbank.org/> ('public sector and governance' > deconcentration). These laws were the *Ordonnance-loi* no. 82/006 of 25 February 1982, the *Loi financière* no. 83/003 of 23 February 1983 and the *Ordonnance-Loi* 87-004 of 10 January 1987 (source: 'Decentralization issues in post-conflict Democratic Republic of the Congo', Stefaan Marysse, in: L'Afrique des Grands Lacs, Annuaire 2004-2005: pp. 196-197).

⁷⁸ 'Congo: five priorities for a peacebuilding strategy', International Crisis Group, 11 May 2009: p. 18.

⁷⁹ See: *Loi organique* no. 8/016, 7 October 2008, 'portant composition, organisation et fonctionnement des Entités Territoriales Décentralisées et leurs rapports avec l'état et les provinces'.

⁸⁰ 'Constitution de la République Démocratique du Congo', Kinshasa, February 2006: pp. 2, 6, 7, 47.

⁸¹ 'Decentralization issues in post-conflict Democratic Republic of the Congo', Stefaan Marysse, in: L'Afrique des Grands Lacs, Annuaire 2004-2005: p. 191.

revenues⁸². In the following decades, the Katangese mines continued to produce 50 to 80% of the national budget⁸³. From this perspective, it is not surprising that many people in Katanga are convinced that their lives will automatically become a lot better as soon as their region is granted a greater degree of autonomy.

In the beginning of December 2008, Kyungu wa Kumwanza, the president of the Katangese parliament, went to Kinshasa to ask the central Congolese government for help. Katangese politicians had difficulties understanding why it took such a long time for them to receive the money that was necessary for the functioning of the provincial institutions and to which they were entitled according to article 175 of the new constitution⁸⁴. In December 2008, the arrears of payment of the central Congolese government vis-à-vis the Katangese government reportedly amounted to US\$130 million⁸⁵. When Célestin Mbuyu Kabongo, the National Minister of Domestic Affairs and Security, paid a visit to Lubumbashi in the beginning of February 2009, he could say little more than that he regretted the persistence of the problem and that he would re-submit it to the central government in Kinshasa in hopes that the latter would eventually solve it in a decent manner⁸⁶.

In March 2008, several months before the eruption of the global financial crisis, Bienvenu Kalunga, the political and security advisor of the Provincial Minister of Domestic Affairs, Decentralisation and Traditional Affairs in Katanga, had already voiced his dissatisfaction with the way the central government was handling the issue of the tax revenues. Talking to the Congolese press, he had complained about the fact that the so-called system of '*retenue à la source*' was not yet operational. Instead of allowing the provinces to keep 40% of the national tax revenues right away (i.e. 'at the source'), the central government was giving them back part of the revenues, a mechanism known under the name of '*rétrocession*'. What upset the governments of regions such as Katanga, Bas-Congo and Kinshasa⁸⁷ was that they received less money from the central government than they did before the promulgation of the new constitution on 18 February 2006⁸⁸.

Another example of the tension between the central government in Kinshasa and the provincial government in Lubumbashi with regard to tax issues is a recent incident about road-repair works in Katanga. In the beginning of January 2009, both the Service for the Road System and Drainage (OVD: *Office des Voieries et Drainage*) and the Katangese provincial government said that they lacked the financial means to do something about the bad conditions of the roads⁸⁹. Nevertheless, in a manner left unexplained, governor Katumbi suddenly managed to come up with enough money to pay for the import of a large number of machines that could be used to carry out road repairs in Katanga. The machines were shown to the public during a mass meeting in Lubumbashi, and, later on, they were put on display on the square Moïse Tshombe, in front of the well-known building of the national postal service, right in the centre of the provincial capital. Whereas Katumbi succeeded in obtaining a tax exemption from the Kinshasa government for the import of the first consignment of machines through the border post of Kasumbalesa, he failed to obtain a similar one for the import of a second consignment, composed of 80 machines with an estimated value of \$20 million. Although the central government said that it would not give its permission to use the machines as long as the provincial government refused to pay import taxes, Katumbi publicly announced that Katanga would use the machines 'by force'⁹⁰.

The two incidents described above could easily lead one to assume that, as a result of the global financial crisis, slumbering disagreements about the decentralisation process have flared up again and have given rise to the emergence of a straightforward binary opposition between two parties: on the one hand, the central government in Kinshasa, believed to be dragging its feet with regard to the decentralisation process, and, on the other hand, the provincial government in Lubumbashi, assumed to strive for an exaggerated level of fiscal autonomy.

We will first explain why it is wrong to analyse the relationship between the authorities in Kinshasa and the authorities in Lubumbashi in binary terms. After that, we will raise a number of questions about the anti-crisis policy of the Katangese provincial government that risk remaining unasked as a result of the exaggerated attention for the '*rétrocession*' issue.

A first case that serves well to illustrate the complexity of the relationship between Kinshasa and Lubumbashi concerns the dispute between Vital Kamerhe and Kabila's *Alliance pour la Majorité Présidentielle*. On 25 March 2009, Vital Kamerhe resigned as the president of the Congolese parliament. The reason for Kamerhe's resignation was that his

⁸² 'L'effondrement de la Générale des Carrières et des Mines', Benjamin Rubbers, in: Cahiers d'Etudes Africaines, vol. XLVI, 1, 181: p. 116.

⁸³ 'Katanga: the Congo's forgotten crisis', International Crisis Group, Africa Report no. 103, 9 January 2006: p. i.

⁸⁴ 'La non retenue des 40% des recettes piège la décentralisation', ACP/MCN, via mediacongo.net, 19 March 2008.

⁸⁵ 'Fermeture des entreprises minières: le Katanga toujours inquiet', Digitalcongo, 9 December 2008; 'Katanga: au moins 300.000 personnes perdront leurs emplois d'ici fin de l'année', Le Palmarès, 16 December 2008.

⁸⁶ 'Le gouvernement promet de ramener la paix sociale', Le Phare, 11 February 2009.

⁸⁷ Taken together, these three regions provide the central government with 80% of its tax revenues. During colonial times, the Belgians elaborated their economic policies for the Congo on the basis of 'three axes of development': Katanga for its mining activities, Bas-Congo for its port activities and Kinshasa for its administration (source: '*Retenue des 40% des recettes aux provinces qui les produisent: les responsables provinciaux s'accordent pour une rétrocession sélective*', L'Avenir, 21 August 2007).

⁸⁸ 'La décentralisation en panne', La Libre Belgique, 19 March 2008; 'La non retenue des 40% des recettes piège la décentralisation', ACP/MCN, via mediacongo.net, 19 March 2008. First, the central government had decided to reduce the '*rétrocession*' to 30% of the national tax revenues, and then, in September 2007, it had even completely suspended the old mechanism in order to switch to a new mechanism consisting in sending the provinces arbitrary sums of money without taking into account the volumes of tax revenues generated in the different areas.

⁸⁹ 'Lubumbashi: faute de moyens, la réhabilitation des routes à l'arrêt', Radio Okapi, 5 January 2009.

⁹⁰ Telephone interview with a journalist in Lubumbashi, 31 March 2009.

position within the *Parti du Peuple pour la Reconstruction et le Développement* (PPRD) and the *Alliance pour la Majorité Présidentielle* (AMP) had become untenable after he had used an interview on Radio Okapi to show his regret over not having been informed of the plans of the Congolese and Rwandese governments to launch a joint military offensive against the Hutu rebels of the FDLR in Eastern DRC in January 2009.

Being an MP from South Kivu, Kamerhe said that he shared the anxiety of the people in Eastern DRC, who were surprised by Kinshasa's decision to authorise the presence of Rwandan troops on Congolese soil, especially after everything that had happened during the recent civil war. Kamerhe's disappointment about the unexpected move of the central government in Kinshasa was also due to the fact that, in October 2008, the National Assembly had adopted a plan to solve the crisis in Eastern DRC by preparing the repatriation of the FDLR to Rwanda, a project that had been submitted to the government as a recommendation.

While some observers considered Kamerhe's forced resignation as a sign that Kabila and his closest allies have difficulties accepting the rules of the game in an open democratic system, others maintained that Kamerhe was just paying the price for having deliberately weakened the AMP by voicing his criticism in public, instead of saving his opinion for internal debates inside the presidential coalition. People belonging to the latter group said that the Congolese people 'do not want to see acts of political opposition at a time when there is still fighting going on in the eastern part of the country and the global financial crisis is making itself felt in the lives of ordinary people in Congolese society'⁹¹.

The reaction of the provincial members of parliament to the commotion concerning Vital Kamerhe's criticism on the Congolese-Rwandan military offensive in the Kivu region shows that the relationship between Kinshasa and Lubumbashi is a lot more complicated than one would imagine. During the latest parliamentary recess, a number of national MPs in Kinshasa launched a petition to organise an extraordinary session of the National Assembly in order to debate Kamerhe's position. This move was seen as an expression of distrust vis-à-vis Kamerhe, one of Kabila's closest allies during the 2006 election campaign. There was an immediate response from Kyungu wa Kumwanza, the president of the Katangese provincial assembly and a member of Kabila's *Alliance pour la Majorité Présidentielle*. He started up a 'counter-petition' (*contre-pétition*) to be signed by the provincial MPs and intended to ask national MPs hailing from Katanga to withdraw their signature from the petition against Kamerhe. According to a critical observer in Lubumbashi, Kyungu's call, which was obeyed by a remarkably large number of provincial MPs, demonstrates that the AMP, the coalition around President Kabila, does not hesitate to put pressure on politicians in Lubumbashi in order to silence every form of criticism on the current political regime. He found it amazing that Kyungu wa Kumwanza, the president of the Katangese provincial assembly, had succeeded in persuading Katangese members of the national parliament not to take part in an attack against Kamerhe, who used to be one of Kabila's closest allies⁹².

A second case that allows us to show the complexity of the relationship between Kinshasa and Lubumbashi concerns a dispute about the repair of a road between Congo and Zambia, involving the Vancouver-based mining and metals company First Quantum Minerals (FQM) as well as a wide range of national and provincial politicians.

In 2007, FQM announced that it was considering revamping the road between the Congolese town of Kolwezi and the Zambian town of Solwezi⁹³. The announcement had to do with FQM's involvement in mining projects on both sides of the Congolese-Zambian border. On the Congolese side of the border, Kingamyambo Musonoi Tailings SARL (KMT), in which FQM holds a 65% stake⁹⁴, is planning to build a copper and cobalt processing plant near Kolwezi in order to process tailings produced by the colonial mining parastatal *Union Minière du Haut-Katanga* (UMHK) during the 1950s. The tailings are located in two deposits: on the one hand, the Kingamyambo tailings dam, and, on the other hand, the Musonoi river tailings deposit. It is estimated that the project will generate a production of 70.000 tpa of copper metal and about 14.000 tpa of cobalt hydroxide⁹⁵.

On the Zambian side of the border, FQM has a 80% interest in the Kansanshi copper-gold mine, which is located in the North Western Province, approximately 10 kilometres north of Solwezi and 180 kilometres to the northwest of the copperbelt town of Chingola⁹⁶. Commercial production at the Kansanshi mine started in April 2005. Kansanshi's mine life is estimated at 13 years and the project currently employs approximately 1376 workers. In 2008, copper production at the Kansanshi mine rose by 31%, an increase attributed to capacity expansions carried out in 2007 and 2008⁹⁷.

By repairing the road at its own expense⁹⁸, FQM was hoping, on the one hand, to facilitate the importation of mining equipment and other inputs from South Africa, and, on the other hand, to make it easier to export mining products

⁹¹ Interview with an employee of an international mining company, 27 March 2009; 'Kabila heeft zijn eigen volk verraden', *De Standaard*, 23 January 2009; 'Kritiek op Kabila kost kamervoorzitter de kop', *De Standaard*, 26 March 2009; 'Kamerhe démissionne sans débat ni vote', *CL/Yes*, 26 March 2009.

⁹² Interview with a journalist in Lubumbashi, 27 March 2009.

⁹³ 'First Quantum to construct 32 km road amounting to US\$ 4M', *Lusaka Times*, 24 February 2007.

⁹⁴ The other shareholders of KMT are the Congolese government (5%), Gécamines (12,5%) and the World Bank's International Finance Corporation (10%).

⁹⁵ Information from the IFC website (www.ifc.org), Kingamyambo Musonoi Tailings Sarl, summary of proposed investment, 24 April 2009.

⁹⁶ Information from the website of First Quantum Minerals, www.first-quantum.com/s/ProjectsLocationMap.asp?ReportID=134048

⁹⁷ Annual report First Quantum Minerals 2008, letter to shareholders: 4; 8.

⁹⁸ According to some sources, the costs of the project are estimated at 25 million dollar (see for instance: 'Lettre ouverte au gouvernement provincial et à l'assemblée provinciale du Katanga: l'insécurité socio-juridique créée et/ou entretenue par les deux institutions politiques provinciales', s.d., Yav Katshung Joseph); 'Contentieux au sujet de la route Kolwezi-Solwezi: quand l'affairisme et l'hégémonie priment au Katanga', s.d., Kaléngé Yamukéna Yantumbi.

from Katanga to its processing plants in Zambia. Without the repair of the road, the company would be forced to continue importing and exporting its materials along the Kasumbalesa-Lubumbashi-Likasi-Kolwezi axis, which was not only more costly but also more time-consuming⁹⁹.

Not everybody agreed with the plans of FQM to refurbish the road between Kolwezi and Solwezi. The most important opponent of the project was the Katangese provincial government, presided by governor Moïse Katumbi. The Lubumbashi government argued that the road repair was likely to be detrimental to the SNCC, the railway company that was already facing serious problems as a result of the economic crisis and the strike of its personnel (cf. supra). Pointing out that, in the past, the SNCC was able to generate a substantial amount of revenues thanks to the transport of minerals from the mining parastatal Gécamines in Kolwezi, the Katangese authorities expressed their fear that the new road between Kolwezi and Solwezi would make the services of the SNCC redundant, at least for the mining companies established in Kolwezi. Apart from that, the Lubumbashi government also voiced its suspicion that some mining companies in the area might use the road between Kolwezi and Solwezi to export semi-refined Congolese minerals for further processing in Zambia, activities that would undermine the government's efforts to promote the refining of minerals on Congolese soil (cf. supra: 3.2). Finally, the Katangese authorities described the repair of the road between Kolwezi and Solwezi as being of secondary importance. In their opinion, it was far more important to finish the refurbishing of the axis Kasumbalesa-Lubumbashi-Likasi-Kolwezi. They pointed out that the works on this latter axis were already in their final phase and that they were to the benefit of the province as a whole. Not only was the axis connected to inland roads leading to the northern, eastern and western parts of Katanga, it was also used by farmers to transport their agricultural produce to one of the regional markets. In addition to this, the axis also enabled Katanga to receive foodstuffs and other manufactured goods from neighbouring Zambia¹⁰⁰.

On 9 January 2009, senator Flore Musendu Flungu, who hails from the Lualaba district close to Kolwezi (see box 3), questioned the National Minister of Infrastructure, Public works, and Reconstruction about the suspension of the road repair between Kolwezi and Solwezi. After Flungu's question had been answered and 10 other senators had expressed their support to Flungu's plea for a continuation of the road works between Kolwezi and Solwezi, the senate decided to appoint an ad hoc commission that was expected to transmit its recommendations to the central government within 72 hours¹⁰¹.

Box 3: The involvement of Flore Musendu Flungu in the Congolese mining business

Flore Musendu Flungu was born in Katanga on 13 April 1961. He obtained a degree as a civil mining engineer at the University of Lubumbashi in 1987 and started working as a technical attaché for exploitation issues at the Congolese diamond mining parastatal MIBA (*Société Minière de Bakwanga*) shortly afterwards. At the same time, he was given a teaching assignment at the mining department of the University of Lubumbashi. In 1988, Flungu left MIBA in order to be able to continue his studies in South Africa. After obtaining a master's degree in mineral economics at the University of Witwatersrand in 1995, he went back to Zaïre, where he was hired by the mining parastatal Gécamines in 1996. In May 1997, he was promoted to the rank of deputy director (*directeur adjoint*) in charge of the negotiation of mining contracts and, in January 1999, he became a member of Gécamines' restructuring team. Laurent-Désiré Kabila appointed Flungu as the head of Nouco, a newly created unit within Gécamines that was expected to work closely together with EMAK (*Association des Exploitants Miniers et Artisans du Katanga*), an organisation claiming to defend the interests of *creuseurs* and mineral buyers in Katanga. After Nouco had ended in a complete fiasco, Flungu was put in charge of its successor, the *Congolaise des mines et de développement* (COMIDE), but the activities of this latter company were not exactly a big success either. A few years later, Flungu became a leading personality in the company Feza Mining, a joint venture between COMIDE and Wanbao Resources, which is controlled by the Chinese arms company Norinco (*China North Industries Corporation*). In April 2005, Feza opened a new pyrometallurgical plant in Shituru (Likasi) with a production capacity of 4.000 tonnes of cobalt-copper alloys. Finally, it should be noted that, on 9 March 2005, Flungu was almost killed, when members of the GSSP (the Presidential Guard) suddenly started firing at his car, close to the village of Tumbwe. The real story behind this attack is still unknown to the public¹⁰².

The ad hoc commission presented its report during the plenary assembly of the Senate as scheduled. Its first recommendation was that the central government should recognise that the aforementioned road was of national interest and that, therefore, it was within the scope of the authorities in Kinshasa. The second recommendation made it clear that the members of the commission were suspicious of the real reasons behind the road repair: they urged the central government to make sure that the works between Kolwezi and Solwezi were carried out without the Congolese state

⁹⁹ 'Réhabilitation des routes dans le Katanga', s.d., www.nyota.net.

¹⁰⁰ It is argued that the route Kolwezi-Likasi-Lubumbashi-Kasumbalesa-Chingola offers more advantages than the route Kolwezi-Solwezi-Chingola (source: 'Réhabilitation des routes dans le Katanga', s.d., www.nyota.net).

¹⁰¹ 'La problématique de la réhabilitation de la route Kolwezi-Solwezi', Le Potentiel, s.d.

¹⁰² The information presented in this box was gathered from various sources: 'Musendu Flungu: le sénateur minier', s.d., Le Potentiel; 'L'Acidh condamne le recours à la force des armes pour s'assurer le contrôle du secteur minier au Katanga', <http://www.rodhecic.org>; 'Cinq questions à Musendu Flungu', Le Potentiel, 24 April 2007; 'China scoops up minerals, infrastructure contracts', SouthScan, 30 June 2005; 'China lets child workers die digging in Congo mines for copper', Bloomberg, 23 July 2008.

having to do something in return, either directly or indirectly¹⁰³. In the end, the Congolese Senate decided that the road between Kolwezi and Solwezi needed to be rehabilitated, but that it was the central government's responsibility to take care of the project, in other words, not FQM's¹⁰⁴.

The senators defending the repair of the road between Kolwezi and Solwezi were accused of having a hidden agenda. It was rumoured that they were preparing the economic future of Kolwezi in view of the splintering of Katanga into 4 new provinces¹⁰⁵ as part of the decentralisation process. Their ambition, some said, was to reduce the economic importance of Kasumbalesa as a border post and to persuade Congolese traders to export their goods to Zambia via an alternative route. Because of their claims that the road between Kolwezi and Solwezi was a provincial road and not a national road, they were suspected of setting up a scenario in which the future authorities of the Lualaba province, based in Kolwezi, would be able to keep all the toll revenues on that road for themselves. Should such a scenario materialise, so the rumours went, the position of Kasumbalesa would become a lot weaker and the central government would lose a lot of revenues¹⁰⁶.

For their part, the Katangese provincial government and Katanga's governor Moïse Katumbi were equally accused of having a hidden agenda. According to an anonymous and unconfirmed UN source, the resistance of governor Katumbi against the refurbishing of the road between Kolwezi and Solwezi has to be considered an act of personal revenge. In an e-mail message sent to IPIS, the source claimed that Katumbi wanted to get even with First Quantum Minerals, because FQM allegedly refused to rent the machines of Katumbi's company MCK when it was starting up its mining project in Sakania¹⁰⁷. A journalist in Kolwezi, who preferred to remain anonymous, claimed that members of the Katangese provincial government and parliament were afraid of defending the Kolwezi-Solwezi road repair because they did not want to anger Katumbi, who allegedly bought them a number of presents with his own money during his term as governor¹⁰⁸. IPIS was unable to obtain a reaction from governor Katumbi to these allegations. When asked for a reaction on the information collected by IPIS, Clive Newall, First Quantum's President, sent the author of this report the following e-mail message: 'Your report is factually correct as far as we understand the situation. You also include some insights and anonymous commentary that I cannot comment on'¹⁰⁹.

Whatever may be the real reasons for the different players to either defend or oppose the Kolwezi-Solwezi road repair, the case clearly shows that the relationship between the authorities in Kinshasa and those in Lubumbashi should not be analysed in static and dichotomous terms. While some members of the Congolese national senate supported the protest of the Katangese provincial government against the road repair, other members – especially those of Kolwezi – strongly disagreed with this protest. Political and economic factors at the national, provincial and subprovincial level help to account for the positions taken by the different parties in this dispute.

Having illustrated the complexity of the relationship between Kinshasa and Lubumbashi, we will now move on to a discussion of a number of measures that are part of the anti-crisis policy of the Katangese provincial government. The first measure that deserves to be scrutinised is the reduction of the export tax from 28% to 1%. According to the research report '*Trading for peace*' (2007)¹¹⁰, the corridor between Lubumbashi and Lusaka accounts for 57% of official DRC exports and about one quarter to one third of its imports. While the export of minerals is dominated by companies and big traders, the import trade is in the hands of a large number of small and medium traders, who import food-stuffs and inputs for the mining industry and the large cities. The report states that, according to the Zambia Revenue Authority, 90% of copper and cobalt exports from the DRC use this corridor¹¹¹.

If the authors of the '*Trading for peace*' report are correct in saying that the exports passing through the Kasumbalesa border post make up 57% of all official Congolese exports, the decision to reduce the export tax from 28% to 1% in Katanga will have a very negative effect on the export revenues of the central Congolese government.

The second measure taken by the Katangese provincial government concerns the restoration of the 6 mining concessions to the artisanal miners. IPIS doubts whether it is a good idea to leave management to the cooperatives EMAK and CMKK. In a report on artisanal mining in Katanga that was published in 2006, the British NGO Global Witness described how the struggle for power between the two organisations gave rise to numerous disputes throughout the province.

EMAK, which stands for *Exploitants Miniers Artisanaux du Katanga*, was created in 1999. According to its memorandum of association, its main goal was to defend the interests of *négociants* and artisanal miners. In addition to protecting and supervising members of these two groups, it also registered them and kept records of the number and identity

¹⁰³ 'Affaire route Kolwezi-Solwezi: le sénat appelé à privilégier l'intérêt national', Le Potentiel, 13 January 2009.

¹⁰⁴ IPIS communication with journalist in Lubumbashi, 18 May 2009.

¹⁰⁵ The names of the 4 provinces are Haut-Lomami, Haut-Katanga, Lualaba and Tanganyika.

¹⁰⁶ Nota bene: the axis Kasumbalesa-Lubumbashi-Likasi is a national road, not a provincial road. Therefore, the Kinshasa government will continue to be entitled to the toll revenues on that road. Sources: 'Contentieux au sujet de la route Kolwezi-Solwezi: quand l'affairisme et l'hégémonisme priment au Katanga', s.d., Kalenge Yamukëna Yantumbi; 'Les raisons en faveur de la construction de la route Kolwezi-Solwezi', s.d., Jean-Pierre Muteba.

¹⁰⁷ IPIS communication with anonymous UN source, 13 February 2009.

¹⁰⁸ IPIS communication with journalist in Kolwezi, 18 May 2009.

¹⁰⁹ E-mail message from Clive Newall, 1 July 2009.

¹¹⁰ The report was written by Hilary Sunman and Nick Bates and which was commissioned by DFID, USAID and COMESA.

¹¹¹ '*Trading for peace achieving security and poverty reduction through trade in natural resources in the Great Lakes area*', Hilary Sunman & Nick Bates, October 2007: 15.

of workers. In exchange for these services, it asked its members to pay a membership fee. It should be noted that membership was voluntary: nobody was obliged to join EMAK, even though the organisation did its best to persuade everyone to buy a membership card. Still, EMAK officials did not shrink from making extra money through the imposition of illicit taxes on both miners and *négociants*¹¹².

The monopoly of EMAK was broken in 2004. This was due to the arrival of a new player on the scene, namely the '*Coopérative minière Madini Kwa Kilimo*' (CMKK), an organisation that defined itself as a cooperative, in other words, a theoretically neutral and thus attractive intermediary between the miners and the buying houses in the big cities. As could be expected, it did not take long before an open conflict erupted between EMAK and CMKK, with the former accusing the latter of stealing away its members by offering them cheaper subscription fees. Just like their colleagues of EMAK, CMKK officials sometimes tried to take advantage of their position, for instance by waiting a long time before paying the miners for their minerals or by prohibiting them to sell their minerals to other parties¹¹³.

Considering that there have been serious disputes between EMAK and CMKK in the past, IPIS advises the Katangese provincial government to develop an alternative solution for the management of the 6 concessions given back to the artisanal miners¹¹⁴.

The third measure of the Katangese government is to motivate former artisanal miners to become active in agriculture. There can be no doubt that something needs to be done to improve the situation of agriculture in Katanga. In his unpublished dissertation on the impact of agricultural management on food security in Katanga¹¹⁵, the Congolese geologist Mukonzo has pointed out that the gradual expansion of the mining industry in the course of the twentieth century has been very harmful to agriculture. With approximately 72% of the total surface of Katanga being allotted to mining companies in the form of exploration or exploitation permits, the province has had no other option but to import most of its basic foodstuffs from countries in Southern Africa, such as Zambia, Zimbabwe and South Africa.

According to Mukonzo, food insecurity is likely to persist in the years to come¹¹⁶. He finds it reasonable to assume that the remaining pieces of land will not be able to feed the Katangese population, even if they were all cultivated, and suggests that, in order to reinvigorate agriculture in Katanga, efforts should be focused on the areas that are most suitable for agricultural development, such as the plains of the Lufira River, the depression of Kamalondo, the Luapula-Moero basin and the Kabongo-Manono-Nyunzu-Kongolo region¹¹⁷.

Thus, although it seems like a good idea to encourage former artisanal miners to make the switch to agriculture, this switch should be carefully planned and based on Mukonzo's observations about the areas most suitable for agricultural development.

The re-authorisation of copper concentrate exports, the last measure taken by the Katangese provincial authorities, is not only remarkable because it conflicts with the earlier policy of promoting the processing of all raw minerals on Katangese soil, but also because it signals a significant shift in the relationship between Moïse Katumbi and the Zambian authorities. In fact, between 2002 and 2007, Katumbi was suffering persecution by the Zambian judicial authorities for his alleged involvement in a number of corruption scandals that took place during the presidency of Frederick Chiluba. During that period, he was threatened with arrest and prosecution if he ever travelled to Zambia¹¹⁸.

Shortly after Levy Mwanawasa became president of Zambia in 2001, he accused his predecessor and fellow party member Frederick Chiluba of massive corruption. Following this accusation, a Task Force on Corruption was created, which was charged with the task of investigating and mapping out the looting network around Chiluba.

One of the most spectacular findings of the Task Force was that, during the Chiluba era, substantial sums of money from the Zambian treasury were systematically transferred to the so-called Zamtrop account with the Zanaco bank in London. This account used to be administered by Xavier Chungu, the then director-general of the Zambia Security Intelligence Service (ZSIS), which explains why the fraudulent money transfers escaped attention from the Zambian

¹¹² While miners were sometimes forced to pay a monthly fee to EMAK representatives, *négociants* were only allowed to take their products away from the mines if they paid a certain amount of money per bag of minerals. Furthermore, agents of the Policar (*Police des carrières*), EMAK's internal police force, did not restrict themselves to their official tasks of protecting the products from the mines against theft or substitution and resolving disputes between miners or between miners and *négociants*. As a matter of fact, they asked miners to pay them protection money, thereby engaging in a form of racketeering.

¹¹³ '*Digging in corruption: fraud, abuse and exploitation in Katanga's copper and cobalt mines*', Global Witness (2006): pp. 22-24.

¹¹⁴ Other reports have also discussed the history and development of EMAK. See: '*The state versus the people*', Didier Verbruggen (2006): p. 39; Report of the Lutundula commission of inquiry (2006): p. 39.

¹¹⁵ '*Système d'évaluation des terres à multiples échelles pour la détermination de l'impact de la gestion agricole sur la sécurité alimentaire au Katanga, RD Congo*', unpublished PhD dissertation, University of Ghent (academic year 2008-2009).

¹¹⁶ His research shows that, within 50 years, the food requirements of the Katangese population will pass from $8,1 \times 10^{12}$ kcalories to $56,8 \times 10^{12}$ kcalories per annum or more, while the maximum production capacity of the remaining land (i.e. the land that has not yet been granted to mining companies) is estimated between $34,44 \times 10^{12}$ and $68,87 \times 10^{12}$ kcalories per annum with the possibility of gradual decrease due to land degradation.

¹¹⁷ Executive summary unpublished PhD dissertation Emery Kasongo Lenge Mukonzo (2008-2009), '*Système d'évaluation des terres à multiples échelles pour la détermination de l'impact de la gestion agricole sur la sécurité alimentaire au Katanga*', RD Congo', University of Ghent, Geology Department.

¹¹⁸ '*Chiluba could go free if he returns the loot*', s.d., Humphrey Nkonde, Sila Press Agency.

parliament. The Task Force established that, between 1998 and 2000, US\$300.000 of public money were transferred to Chiluba and to people in his close environment¹¹⁹.

In 2007, a British High Court found Chiluba guilty of plundering £23 million from the Zambian people. It was found that the former Zambian president had used the stolen money to pay for clothes, jewellery, cars, luxury homes and handmade high-heeled shoes¹²⁰. Together with Chiluba, four others were also found guilty of fraud, namely former intelligence chief Xavier Chungu, former Finance Permanent Secretary Stella Chibanda and two former directors of Access Financial Services, Faustin Kabwe and Aaron Chungu¹²¹.

According to a briefing note of the Zambian Attorney-General on the abovementioned judgment of the British High Court, Raphael Soriano Katebe Katoto¹²², Moïse Katumbi's elder brother, was involved in an arms scandal that came to be known as the BK conspiracy. Apparently, Chiluba, Chungu and Chibanda (cf. supra) conspired with Katebe Katoto to misappropriate US\$21 million of Zambian government money:

*In early 1999, XF Chungu signed an agreement on behalf of Zambia appointing Soriano as its consultant to negotiate and purchase arms, ammunition and equipment. In August 1999, an agreement was purportedly entered into by Zambia with a Bulgarian company, Teraton EAD, for the procurement of helicopters, fighter aircraft, arms and equipment. Soriano purportedly agreed to assist Zambia in funding the purchase and then obtained a Facility Agreement from Zambia which required an upfront payment of US\$10,000,000 to be advanced to him before he advanced any monies to Zambia. The Judge held that this was "plainly a fraudulent instrument to provide an umbrella for the removal of the monies from Zambia"*¹²³.

'Africa Confidential' reported that the acronym BK stood for Betti Katumbi, whom the newsletter presented as the wife of Moïse Katumbi. Furthermore, it asserted that Betti Katumbi held an account with the KBC Bank in Bruges¹²⁴.

The investigations of the Zambian corruption Task Force on Moïse Katumbi were focused on his involvement in a US\$12 million maize deal, which allegedly enabled him to divert US\$4,2 million for private use. It was claimed that Katumbi used the diverted money to refinance two of his companies in Zambia. In addition to this, the Task Force also wanted to interview Katumbi about the BK conspiracy and about the fact that he had received substantial amounts of money from the infamous Zamtrop account in London¹²⁵.

In December 2007, Zambia decided to drop the charges against Moïse Katumbi. In a Reuters press article, a senior Zambian government official suggested that this decision had been taken out of concern over Zambia's economic interests in the copperbelt as well as over the possible consequences of a diplomatic crisis between the DRC and Zambia over Katumbi's extradition. Apparently, in March 2007, the Zambian corruption allegations had already made Katumbi so angry that he decided to shut the Zambia-DRC border for more than a week. As a result of this, trucks carrying copper ore and concentrate and heading for refineries based on Zambian territory got stuck at the border. It was because the Zambian government wanted to avoid a repetition of this type of incident that it agreed to conclude an out-of-court settlement with Katumbi¹²⁶. Part of the deal was that Katumbi had to forfeit property worth US\$2 million to the Zambian government¹²⁷.

Documents shown to IPIS confirm that, at least until early September 2008, a woman named Betti Katumbi was the holder of KBC account no.474-7401180-20, on which Katoto Katebe held power of attorney. Furthermore, IPIS was told that Betti Katumbi was born on 31 May 1966 in the Congolese village of Kashobwe and that she is currently living in Lubumbashi, at 1455 Avenue Kifulula¹²⁸.

Contrary to what is alleged in the 'Africa Confidential' article, however, the name of Moïse Katumbi's wife is not Betti Katumbi but Carine Katumbi¹²⁹. During an interview with IPIS in Bruges, Katebe Katoto told IPIS that Betti Katumbi is

¹¹⁹ 'Zambia. Plundernetwerk met Belgische draadjes', Tineke Van Der Eecken, Mo Magazine, 8 December 2006.

¹²⁰ 'President who frittered £600.000 on clothes as his people starved', The Times, 5 May 2007.

¹²¹ 'London court holds Chiluba, 4 others of defrauding Zambia of US\$25, US\$21m', Lusaka Times, 4 May 2007.

¹²² In the report of the Group of Experts on the Democratic Republic of Congo, which was published in December 2008, Katebe Katoto was cited as one of the individual financiers of the CNDP, the former rebel movement of General Laurent Nkunda, and the *Forces Républicaines Fédéralistes* (FRF), a South Kivu based rebel group that used to be affiliated with the CNDP (S/2008/773: § 48-49-50). In an interview with IPIS, Katebe Katoto refuted these allegations. He said that he knew Nkunda from his time as the vice-president of RCD-Goma during the period of political transition. Furthermore, he contended that Nkunda was one of the military officers he used to talk to during his stays in Goma, but that this was well before the creation of the CNDP. Katebe maintained that he had made only one money transfer to the account of Nkunda's wife in Gisenyi. According to Katebe, Nkunda's wife was helping him to buy a house on the edge of Lake Kivu, where he was planning to spend his holidays (Interview with Katebe Katoto, 27 May 2009). For biographical information on Katebe Katoto, see: 'Biographies de la transition' (2006), Jean Omasombo & Erik Kennes: pp. 91-92.

¹²³ The Attorney General of Zambia for and on behalf of the Republic of Zambia vs Meer Care & Desai and others, Briefing note on the judgment of Mr. Justice Peter Justice Smith dated 4 May 2007: §33.

¹²⁴ 'Zambie: au voleur!', Africa Confidential, no. 523, 14 May 2007: pp. 6-7.

¹²⁵ 'Task force still want Moses Katumbi', s.d., Daily Mail; 'DRC asked to extradite governor', Reuters, 8 March 2007.

¹²⁶ 'Zambia drops graft charges against Congo governor', Reuters, 12 December 2007. 'Katumbi surrenders property to Zambia', Zambia Daily Mail, s.d.

¹²⁷ 'Chiluba could go free if he returns the loot', s.d., Humphrey Nkonde, Sila Press Agency.

¹²⁸ IPIS communication with intelligence source, 19 May 2009.

¹²⁹ For more information on Carine Katumbi, see for instance: 'De la farine et du matériel aratoire aux ménagères de Lubumbashi', Le Potentiel, 4 July 2008.

Moïse Katumbi's sister. He said that Betti Katumbi currently lives in Lubumbashi and that she is married to a Belgian businessman¹³⁰.

When asked for his opinion about the corruption allegations levelled against him and his brother, Katebe Katoto claimed that the whole matter was caused by a personal feud between Chiluba and Mwanawasa. According to Katebe Katoto, Mwanawasa accused Chiluba and his friends of embezzling state money because he wanted to take revenge for the fact that it had taken him so long to become president of his country. He suggested that Mwanawasa was probably angry and frustrated because, for a very long time, Chiluba and the people in his environment had made it impossible for him to satisfy his personal political ambitions¹³¹.

Katebe Katoto suspected that he and his brother got mixed up in the Zambian investigation into Chiluba's fraudulent practices, because they both used to have a very good and close relationship with the former Zambian president. He pointed out that, between the two of them, Moïse Katumbi was the first who managed to be on good terms with Chiluba, thanks to his reputation as the successful head of the company Chani Fisheries. Katumbi was the one who introduced Katebe Katoto to Frederick Chiluba¹³².

Commenting on the so-called BK affair, Katebe Katoto stated that he had signed a contract as a consultant with the Zambian government for a period of 10 years. In the beginning, he was asked to help Zambia find a new credit line of US\$100 million with one or more foreign banks at a time when both the World Bank and the International Monetary Fund were keeping a close eye on the way Zambia's public finances were being managed¹³³. Katebe Katoto asserted that, according to the contract, he was entitled to a commission fee of 2.5% on the total amount of money that the Zambian government would be able to borrow from the bank(s). He claimed that it was only at a later stage that he was also asked to assist the Zambian government in finding second-hand military equipment in Eastern Europe. Katebe Katoto told IPIS that, because he is not a professional arms dealer, he asked two other companies to help him with his search: the Bulgarian company Teraton EAD and an unnamed Austrian company. When IPIS asked Katebe Katoto if it was possible to see the documents related to this case, he told us that all of them had been seized in the context of an ongoing police investigation in Bruges¹³⁴.

IPIS believes it is necessary to know more about the possible continuation or resumption of Moïse Katumbi's business activities in Zambia. According to a Reuters article that was published on 8 March 2007, Katumbi used to be one of the many Katangese businessmen who exported copper ore for refining in Zambia's northern copperbelt, the heart of the country's copper and cobalt industry¹³⁵. Jean Omasombo and Erik Kennes, the authors of a book with biographical information on the most prominent players during the period of political transition in the DRC, maintain that Katumbi's brother Katebe Katoto created a Zambian company called Keli, which is specialised in the marketing of copper and cobalt¹³⁶. If this information is correct and if the company Keli is still operational, it puts the decision of the Katangese authorities to re-authorise copper concentrate exports in a different light. After all, it would lead one to wonder whether this decision was not taken to enable Moïse Katumbi or his brother Katebe Katoto to carry on with the trading of minerals across the DRC-Zambia border. When IPIS asked Katebe Katoto about the activities of Keli, he replied that he had never heard of that company. IPIS was unable to get a reaction from Moïse Katumbi to the rumours about his business interests in Zambia and to the news reports about his alleged involvement in the Zambian corruption scandal around the former Zambian president Frederick Chiluba.

¹³⁰ IPIS interview with Katebe Katoto, 27 May 2009.

¹³¹ IPIS interview with Katebe Katoto, 27 May 2009.

¹³² IPIS interview with Katebe Katoto, 27 May 2009.

¹³³ For more information about the relationship between the Zambian government and international financial institutions, see: *'The plundering of Zambia resources by Frederick Chiluba and his friends: a case study of the interaction between national politics and the international drive towards good governance'*, Jan Kees van Donge, in: *African Affairs*, 108/430, 2009: pp. 69-90.

¹³⁴ Interview with Katebe Katoto, 27 May 2009.

¹³⁵ *'DRC asked to extradite governor'*, Reuters, 8 March 2007.

¹³⁶ *'Biographies des acteurs de la transition'* (2006), Jean Omasombo & Erik Kennes: p. 92.

4. Conclusions

This report has shown that the global financial crisis has severe consequences for both industrial and artisanal mining in Katanga. As far as the industrial mining sector is concerned, we have demonstrated that the crisis exacerbated the uncertainty of mining companies that were waiting for the results of the review of the mining contracts and that were often in the middle of starting up or expanding their activities. While companies such as Metorex, CAMEC, Anvil Mining, Katanga Mining Ltd and BHP Billiton were forced to interrupt or slow down their activities, several Chinese companies gave the impression of hesitating between staying around or leaving for good. IPIS remains convinced that the renegotiation of the mining contracts is of vital importance for the long-term development of the Congolese mining industry, however, and we encourage all parties involved in the talks to work towards a well-considered and lasting solution for the issue of mineral resource exploitation. With regard to the artisanal mining sector, we have pointed out that, due to the sharp decline of mineral prices, large numbers of *creuseurs* have left the mines. While some of them appear to have found a new source of income in agriculture, there are disturbing reports that others may have chosen to engage in criminal activities in order to stay afloat. Our discussion of the government initiatives to cope with the crisis has shown that, although the decentralisation process tends to complicate the cooperation between the Kinshasa government and the Lubumbashi government, it would be a mistake to analyse the relationship between the two in static and dichotomous terms. IPIS believes that the discussion about the '*rétrocession*' issue creates the risk that the measures of the Katangese authorities to deal with the crisis are not examined in a critical manner. According to IPIS, it is doubtful whether the Katangese government has taken the right decision by reducing the export tax from 28% to 1%, because this is likely to have a very negative impact on the export revenues of the central Congolese government. We also think that it is not advisable to leave the management of the 6 recently released mining concessions to EMAK and CMKK, because there have been numerous disputes between these two cooperatives in the past. As far as the intention of the Katangese government to promote the development of the agricultural sector is concerned, IPIS believes that this is definitely a step in the right direction, but that there is also need for more planning in order to guarantee food security in the years to come. Finally, IPIS understands that the re-authorisation of copper concentrate exports has been necessary to give mining companies in Katanga some breathing space. Nevertheless, we hope that this is only a temporary measure and that the Katangese government will pursue its policy of stimulating the processing of minerals on Katangese territory.



The border between the concessions of Ruashi Mining and L'Etoile/Chemaf (IPIS October 2009)

List of abbreviations

AIM	Alternative Investment Market
AMP	Alliance pour la Majorité Présidentielle
BK	Betti Katumbi
CAMEC	Central African Mining & Exploration Company
CMKK	Coopérative Minière Madini Kwa Kilimo
COMIDE	Congolaise des Mines et de Développement
DCP	DRC Copper and Cobalt Project
DRC	Democratic Republic of Congo
EIB	European Investment Bank
EMAK	Exploitants Miniers Artisanaux du Katanga
FDLR	Forces Démocratiques de Libération du Rwanda
FQM	First Quantum Minerals
GSSP	Garde Spéciale de Sécurité Présidentielle
IDA	International Development Association
IMF	International Monetary Fund
IPIS	International Peace Information Service
JSE	Johannesburg Stock Exchange
KCC	Kamoto Copper Company
KMT	Kingamyambo Musonoi Tailings
KOV	Kamoto Oliveira Virgule
MCK	Mining Company Katanga
MIBA	Société Minière de Bakwanga
MONUC	Mission des Nations Unies en République Démocratique du Congo
MP	Member of Parliament
NGO	Non-Governmental Organisation
NORINCO	China North Industries Corporation
NOUCO	Nouvelle Compagnie
OVD	Office des Voeries et Drainage
PPRD	Parti du Peuple pour la Reconstruction et le Développement
RAC-ESF	Rapid Access Component of the Exogeneous Shocks Facility
SNCC	Société Nationale des Chemins de Fer du Congo
TFM	Tenke Fungurume Mining
UMHK	Union Minière du Haut-Katanga
ZSIS	Zambia Security Intelligence Service